

MOTIONS FOR DISCOVERY – MORE INFO!

It was brought to BCI's attention that the information in the September 2004 newsletter relating to discovery in criminal cases had been modified by Utah case law. BCI contacted DPS legal counsel and the Utah Attorney General's Office regarding *State v Mickelson* 848P. 2d 677. Mickelson requires that the prosecution provide criminal history information regarding witnesses in a number of situations including request by defense for records that the prosecution has not previously obtained. BCI will comply with prosecution request for criminal history information including request in which the prosecution is obtaining the information for the defendant in compliance with Mickelson.

If you have a person or people who are called as a witness regularly you will need to run the criminal justice information files on each individual for each case. Inquiries should be case related and it is not permissible to run a list of people not associated as witnesses with an ongoing criminal case. It is suggested that in order to avoid abuses prosecutors seek protective relief from the court if the defense is creating an undue burden or seeking broad access to criminal records without regard to relevancy or need.



Federal criminal history record information is governed by federal law. It must be handled differently than Utah criminal history record information. According to the NCIC/FBI legal counsel, if a III/FBI criminal record is requested through discovery, and the prosecution has not inquired on it, then the defense must get an order from the judge, and the defense must submit that order to the FBI. The FBI will send the response back to the judge. The FBI has requested that if there are any questions or problems with this policy a letter should be submitted to BCI who will then forward the request onto the NCIC/FBI legal counsel.

If you have any questions contact BCI at (801) 964-4566.

NON-DISCLOSURE AGREEMENTS



Any Utah criminal justice agency that disseminates UCJIS information to another criminal justice agency must have a "Non-Disclosure Agreement" in place with that agency.

This agreement must be signed by the administrators of both agencies involved.

Agreements signed only by the TAC are not valid.

These agreements must be renewed when the administration of either agency changes.

The agreement must contain a list of all individuals at the recipient agency that can receive the UCJIS information. The agreement must be updated if there is a change in the individuals authorized to receive information.

Non-Disclosure Agreements must be in place even if the recipient agency is a terminal agency.

Utah agencies giving UCJIS information to out-of-state agencies must also have a Non-Disclosure Agreement in place with that out-of-state agency.

The recipient agency must be authorized to receive criminal justice information, and must perform criminal history functions. Please don't think that you can disseminate UCJIS information to just anybody provided that a Non-Disclosure Agreement has been signed! If you have questions about whether you can disseminate UCJIS information to a particular entity, please contact the Field Services staff at BCI.

Non-Disclosure Agreements can be found in the Forms Section of the *BCI Operations Manual* that was distributed at the annual TAC classes.

OTN MISCONCEPTIONS

SOME COMMON MISCONCEPTIONS ABOUT THE OTN (OFFENSE TRACKING NUMBER)

- Every single *charge* needs its own OTN
- Each person is only assigned one OTN during his criminal career
- If a person has multiple charges (from the same agency or not) then each different court case needs a separate OTN.

In reality, every arrest *incident* is assigned an OTN despite the number of charges. If a person is booked on new arrests AND warrants from other agencies, all charges still get the same OTN.

Citation numbers work as OTNs. If you cite a person AND decide to bring them in for booking, please make sure to use the citation number as the OTN or let BCI know that the citation number belongs to a particular OTN number so we can cross reference them.

OPERATOR BACKGROUND CHECKS

TACs – are you running COMPLETE criminal background checks on your new operators?

Please make sure that you are running background checks with any maiden names and/or any other names the operator has gone by. Make sure you also run checks by social security numbers as well. Finally, make sure you are running state and national criminal history and warrant checks.

Many TACs are surprised when BCI has to disable an operator's access because the TAC did not run a complete background check, and thus thought the operator did not have a criminal history.

CHANGING EXISTING ACCESS FOR AN OPERATOR

TACs - If you need to change the files that will be accessed for an existing UCJIS operator, you still need to submit a "Logon Request Form" to BCI.

Please make sure you are using the updated version of the Logon Request Form (Revised October 2004.) Contact the Help Desk if you do not have a copy of the revised form.

"YQ" AND "YR" ISSUES

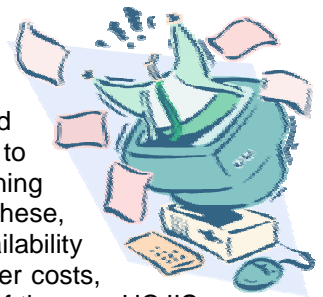
When sending YQ or YR messages, please remember to send a copy of all messages to your own ORI.

If you do not receive the message you sent to yourself, this may mean the system "errored out" and that your message did not go through. If you didn't get the message it means the other agencies involved probably did not get it either. And if they didn't get it, you may wind up with a nasty "Hit Confirmation Error."

If you do "Error Out," you can re-send the message to all agencies involved, or contact the Help Desk for help in sending the message.

RECORD MANAGEMENT SYSTEM ACCESS

The UCJIS files are constantly becoming more versatile. Many goals have been realized such as adding images to NCIC warrants and obtaining driver license photos. These, along with increased availability of access and lowered user costs, are some of the benefits of the new UCJIS system. One new addition is allowing local agencies to share records management information and CAD data across platforms.



Currently, we are testing a transaction to access local RMS data prior to moving this into production statewide. This will provide more information to agencies, increase the chance of locating wanted persons, and assist investigators by allowing them greater access to on-line information. Similar to the DEA's National Drug Pointer Index and National Virtual Pointer System, this new transaction will act as a pointer index for informational resources.

One down side of this new feature is that some agencies are hesitant to participate. This transaction will work best in a "pay-to-play" setting wherein local agencies all participate to allow this access to others. An agency that accesses the transaction but denies access to its own records will only hamper the benefits of this transaction.

Watch for more information from your TAC!

“QUALIFYING CONVICTIONS” DRIVER LICENSE vs. UCCH

If a “Qualifying Conviction” shows on an individual’s drivers license record, that does not necessarily mean that there is an *existing conviction*, or that the conviction shows on that person’s UCCH record. For a variety of reasons, the conviction information on DLD may not match that on UCCH. Some of these reasons include:

- BCI never received fingerprints for the offense
- BCI/DLD never received the disposition from the court
- BCI or DLD was not notified of a declination or dismissal
- The offense occurred outside of Utah
- The offense was expunged from UCCH, but DLD was not notified
- Offense was committed by a juvenile
- “Refusal to Submit” is not a criminal offense maintained by BCI.

When reviewing “Qualifying Convictions” please check both DLD and UCCH. If there is a discrepancy, please contact BCI, DLD or the court of record.

INTERNAL AGENCY AUDITS

I’M THE ONLY OPERATOR! HOW CAN I AUDIT MYSELF?



Many agencies audited by BCI are cited for not performing internal UCJIS audits. This leaves many one-operator agencies asking, “How can I perform an audit when I’m the only operator?”

There are many things a one-operator agency can do to perform internal audits. The operator should still check dissemination logs to make sure his/her login has not been compromised. (For instance, maybe someone called our Help Desk and pretended to be you, had your PIN and Password changed, and then ran all kinds of things you’re your logon!)

If another agency has access to your ORI (like a sheriff’s office or a dispatch center) make sure they are not misusing your ORI.

Also, make sure you have all of your necessary forms, agreements, and contracts up to date. Have you sent us the yearly signed User Contract and the

ORI Validation form? If you give information to another agency, do you have a current Non-Disclosure Agreement in place with them?

Have any unescorted service personnel (janitors, computer technicians) had their fingerprints sent to BCI for a background check?

Have any of the UCJIS policies and procedures changed in the past year? If so, how will these changes effect your agency’s daily operations? How is your agency reacting to those changes? Are your internal policies and procedures current and adequate?

Has agency administration been advised of UCJIS issues that will effect your agency’s day-to-day operations?

If you give UCJIS information to another agency, has that agency been trained on UCJIS issues, particularly privacy and security?

These are just some of the things you can do to perform an agency audit; even if you are a one-operator agency.

MANAGEMENT CHANGES

Recent personnel changes have BCI doing the “Supervisor Shuffle” once again.

Manager Suzanne Briscoe left BCI in September for a position with the West Jordan PD. (Our loss is West Jordan’s gain!) Joyce Carter was subsequently chosen to be the new manager over the Firearms, TWX, and Field Services Sections.

Nicole Starks is the new Brady Section Supervisor, and Jake Dunn was recently chosen to be the Field Services Supervisor.

Good luck to all in your new capacities!

UCR/IBR

IDENTITY THEFT AND NIBRS

As most NIBRS agencies have noticed, the NIBRS program is not well equipped for handling incidents of identity theft. (After all, identity theft was barely even heard of when NIBRS was developed in the 1980’s!)

However, FBI CJIS is developing guidelines concerning this type of crime, and expects to have

an article concerning identity theft in the next CJIS newsletter. BCI will pass this information along to NIBRS agencies just as soon as we get it.

2004 CRIME IN UTAH REPORT

The *2004 Crime in Utah Report* is almost finished; be looking for a letter in the mail that will tell you how to access the report on the web. When you receive this web address, please preview your agency's information before we make the report available to the general public.

MONTHLY SUBMISSIONS

Agencies are encouraged to submit their UCR/IBR statistics on a monthly basis, if possible. We also encourage you to make these submissions by the 10th of each month.

MISSING PERSON INFORMATION

AMBER ALERT TEST

The Woods Cross PD and the Utah AMBER Alert Advisory Committee initiated the third test of Utah's AMBER Alert Plan on Sunday, September 19, 2004. BCI would like to thank Chief Paul Howard and TAC Carla Cowley for inviting the Amber Alert Committee and the news media to their department to conduct this test. Chief Howard is a member of the advisory committee representing Utah Law Enforcement.

The test was successful, Amber Alert coordinators said, because the public started getting notified **one minute and nine seconds** after the alert was issued. About 4,000 messages are transmitted to cell phones, pagers and e-mails when an Amber Alert is activated. The public can sign up to receive such Amber Alert messages on BCI's website at www.bci.utah.gov/MPC/AmberAlertRegistration.html

This is the first time a test was conducted on a weekend, a time when law enforcement, transportation and broadcasting staffs are usually smaller. The biannual trials are held to make sure the child abduction alerts are immediate and effective. The tests are scheduled each year on May 25, Missing Children's Day and September 19, the anniversary of the day when kidnap victim Rachael Runyan was found. Utah's next scheduled Amber Alert test will be conducted May 25, 2005.

SUZANNE'S LAW

As part of the Crime Control Act of 1990, 42 U.S.C. 5779(a) stated that "Each federal, state, and local law enforcement agency shall report each case of a missing child under the age of 18 reported to such agency to the National Crime Information Center of the Department of Justice".

Records for these persons are entered into NCIC using the "Juvenile" category if they do not meet the criteria set forth for the "Disability", "Endangered", "Involuntary" or "Catastrophe Victim" categories.

On April 7, 2004, Section 5779(a) was amended by striking "age of 18" and inserting "age of 21". As a result, NCIC edits were modified to accommodate the entry of these subjects as juveniles. **Suzanne's Law mandates an NCIC entry for missing persons under 21.**

The entry criteria for the "Juvenile" category was changed from "a person under the age of 18" to a "person under the age of 21". The age limit was also raised when entering CA (Child Abduction) into the MNP field for records entered using the "Endangered" or Involuntary" categories.

The entry criteria for the "Other" category was changed from "a person over the age of 18" to "a person age 21 and older."

These changes pose a problem for those states that do not allow entry of Missing Person records using the "Juvenile" category for persons over the age of 18. To resolve this, the edit on the "Other" category was lifted to allow records to be entered for subjects between the ages of 18 and 21.

There was also an issue for states where the age of emancipation is 18. Prior to the change, the Date of Emancipation (DOE) field had to be later than the current date. This edit was lifted to allow back-dating of the DOE field to the day the subject reached the age of emancipation. In these cases, the message key is translated in the record as "MISSING PERSON - EMANCIPATED JUVENILE". Whatever the requirements were for under 18 are now for under 21.

Watch for the upcoming NCIC Technical Operational Update on this subject.

FORWARD NEWS ITEMS TO: B.C.I., FIELD SERVICES, 3888 W 5400 S, BOX 148280, SALT LAKE CITY UT 84114-8280

BUREAU OF CRIMINAL I.D.
Lt. Col. Scott Behunin, Chief
801-965-4571

FIELD SERVICES
Joyce Carter, Manager
801-965-4576

FIELD SERVICES
Jake Dunn, Supervisor
801-965-4963

EDITOR
Adrienne Sowards
801-965-4497